

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

TRACY SYRACUSE
43 Broezele Street
Lancaster, New York 14086

Plaintiff,

vs.

SUMMONS

Index No.:

HOME DEPOT, U.S.A., INC.
2455 Paces Ferry Road
Atlanta, Georgia 30339,

HD DEVELOPMENT OF MARYLAND, INC.
2455 Paces Ferry Road
Atlanta, Georgia 30339,

GIAN PROPERTIES, LLC.
4221 Transit Road
Williamsville, New York 14221

Defendants.

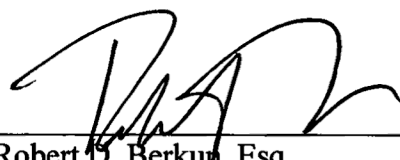
TO THE ABOVE NAMED DEFENDANTS:

You are hereby summoned and required to serve upon the Plaintiff's attorney, at the address stated below, an Answer to the Plaintiff's Complaint. If the Summons was personally served upon you in the State of New York, the Answer must be served within twenty (20) days after such service of the Summons, excluding the date of service. If the Summons was not personally delivered to you within the State of New York, the Answer must be served within thirty (30) days after service of the Summons is complete as provided by law.

If you do not serve an Answer for the attached Complaint within the applicable time limitations stated above, a judgment will be entered against you by default for the relief demanded in the Complaint without further notice to you.

The Plaintiff designates Erie County as the place of trial. The basis of venue is the Plaintiff's residence. This is an action in negligence.

DATED: Buffalo, New York
February 8, 2021



Robert D. Berkun, Esq.
LAW OFFICE OF ROBERT D. BERKUN
Attorney for Plaintiff
Office and Post Office Address
Main Place Tower – Suite 2150
350 Main Street
Buffalo, New York 14202
(716) 856-4080

STATE OF NEW YORK
SUPREME COURT: COUNTY OF ERIE

TRACY SYRACUSE,

Plaintiff,

COMPLAINT

vs.

Index No.:

HOME DEPOT U.S.A., INC.
HD DEVELOPMENT OF MARYLAND, INC., and
GIAN PROPERTIES, LLC.

Defendants.

Plaintiff, TRACY SYRACUSE, by and through her attorneys, the Law Office of Robert D. Berkun, for her Complaint against the Defendant HOME DEPOT U.S.A., INC., HD DEVELOPMENT OF MARYLAND, INC., AND GIAN PROPERTIES, LLC. herein alleges as follows:

1. That at all times herein mentioned, Plaintiff, TRACY SYRACUSE, was and still is a resident of the County of Erie and State of New York.
2. Upon information and belief, at all times herein mentioned, the Defendant, HOME DEPOT U.S.A., INC., was and still is a foreign business corporation, existing by virtue of the laws of the State of Delaware, with an office for the transaction of business located in the County of Erie and State of New York.
3. Upon information and belief, at all times herein mentioned, the Defendant, HD DEVELOPMENT OF MARYLAND, INC. was and still is a foreign business corporation, existing by virtue of the laws of the State of Maryland, with an office for the transaction of business located in the County of Erie and State of New York.

4. Upon information and belief, at all times herein mentioned, GIAN PROPERTIES, LLC. was and still is the a domestic limited liability company, existing by virtue of law of the State of New York, with an office for the transaction of business located in the County of Erie and State of New York.

5. Upon information and belief, at all times herein mentioned, HOME DEPOT U.S.A., INC., was and still is the owner and/or lessee in possession of the real property located at 4139 Transit Road in the Town of Clarence and State of New York.

6. Upon information and belief, at all times herein mentioned, the Defendant, HD DEVELOPMENT OF MARYLAND, INC. was and still is the owner and/or lessee in possession of the real property located at 4139 Transit Road in the Town of Clarence and State of New York.

7. Upon information and belief, at all times herein mentioned, the Defendant, GIAN PROPERTIES, LLC. was and still is the owner and/or lessee in possession of the real property located at 4139 Transit Road in the Town of Clarence and State of New York.

8. As the owners and/or lessees in possession of the aforementioned real property, the Defendants, had a duty to maintain, inspect and keep the premises reasonably safe and free of hazards, which could cause injury to persons lawfully thereon.

9. Upon information and belief, at all times herein mentioned, the Defendants knew, or should have known in the exercise of reasonable care, that a hazardous condition existed and persisted on the premises, which created a slipping and falling hazard due to an unreasonable accumulation of ice and/or snow on the parking lot of the property located at 4139 Transit Road Town of Clarence and State of New York.

10. That on or about the 11th day of December of 2019, the Plaintiff was lawfully in the parking lot of the premises located at 4139 Transit Road in the Town of Clarence and State of New York when she was caused to slip and fall due to an unreasonable accumulation of ice and/or snow thereon, and Plaintiff sustained serious bodily injury due to the breach of duty of the Defendants, with no culpability on the part of the Plaintiff.

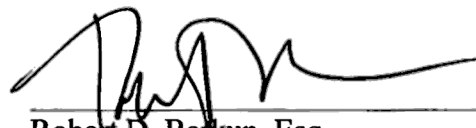
11. The failure of the Defendants to properly inspect and maintain the real property in a safe condition when they knew, or should have known in the exercise of reasonable care, that a hazardous condition existed and/or persisted on the premises, was the actual and proximate cause of the injuries to the Plaintiff.

12. As a result of the aforesaid negligence and breach of duty of the Defendants, the Plaintiff was rendered sick, sore, lame and disabled, and has sustained past, present and will continue to sustain future pain and suffering, loss of enjoyment of life, and medical expenses; all to the Plaintiff's damage in a sum which exceeds the jurisdictional limits of all lower Courts that may otherwise have jurisdiction over the subject of this matter.

13. That this cause of action falls within one (1) or more of the exceptions or exclusions set forth in CPLR §1601 and CPLR §1602, including but not limited to CPLR §1601(1) and CPLR §1601(1)(2)(7).

WHEREFORE: The Plaintiff, TRACY SYRACUSE, demands judgment against the Defendants, HOME DEPOT U.S.A., INC., H.D. DEVELOPMENT OF MARYLAND, INC., and GIAN PROPERTIES, LLC., each of them jointly and severally, on her cause of action, in a sum that exceeds the jurisdictional limits of all lower Courts that may otherwise have jurisdiction over the subject of this matter, together with the cost and disbursements of this action; and for such other and further relief as this Court may deem just and proper.

DATED: Buffalo, New York
February 8, 2021



Robert D. Berkun, Esq.
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Attorney for Plaintiff
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